

BETTY A. JUERGENS,
Plaintiff,
v.
MICHAEL J. ASTRUE,
Defendant.

Before the Court is Plaintiff's Motion for Extension of Time to file a brief in support of her complaint ([Doc. # 20](#)) and Motion for Leave to Voluntarily Dismiss Complaint Without Prejudice ([Doc. # 21](#)). All matters are pending before the undersigned United States Magistrate Judge, with consent of the parties, pursuant to 28 U.S.C. § 636(c). The Court, having reviewed the motions, finds Plaintiff's Motion for Extension of time should be DENIED as moot and Plaintiff's Motion for Leave to Voluntarily Dismiss her Complaint Without Prejudice should be GRANTED.

Background

Plaintiff filed her Complaint pursuant to 42 U.S.C. § 405(g), seeking judicial review of the final decision of Defendant, the Commissioner of Social Security, denying her claim for a Disability Insurance Benefits (“DIB”) and Supplemental Security Income (“SSI”) pursuant to Titles II and XVI of the Social Security Act, respectively. In her motion for leave to dismiss, Plaintiff states that after a thorough review of the record, it would not be in Plaintiff’s best

interest to pursue this claim. The claim is pending for DIB and SSI. However, Juergens is currently receiving SSI.

Discussion

“Rule 41(a)(2) is primarily intended to prevent a plaintiff from voluntarily dismissing a lawsuit when such a dismissal would ‘unfairly affect’ the defendant.” *Beavers v. Bretherick*, 227 F. App'x 518, 521 (8th Cir.2007) (quoting *Paulucci v. City of Duluth*, 826 F.2d 780, 782 (8th Cir. 1987)). The decision to grant or deny a plaintiff's motion to voluntarily dismiss a lawsuit is left to the sound discretion of the Court. *See, e.g., Cahalan v. Rohan*, 423 F.3d 815, 818 (8th Cir. 2005).

The Court finds that dismissing this lawsuit would not unfairly affect the defendant. Further, Juergens has presented a proper explanation for her desire to dismiss, in that she is currently receiving SSI benefits and after a thorough review of the record does not consider it in her best interest to continue to pursue this claim.

Accordingly,

IT IS HEREBY ORDERED that Plaintiff's Motion for Extension of Time to file a brief in support of her complaint ([Doc. # 20](#)) is DENIED as moot.

IT IS FURTHER ORDERED that Plaintiff's Motion for Leave to Voluntarily Dismiss Complaint Without Prejudice ([Doc. # 21](#)) is GRANTED.

Dated this 21st day of June, 2012.

/s/ Nannette A. Baker
NANNETTE A. BAKER
UNITED STATES MAGISTRATE JUDGE